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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,555	04/19/2004	Hironobu Mikoshiba	KON-1874	3422
20311 7590 03/07/2008 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			EXAMINER WHIPKEY, JASON T	
			ART UNIT 2622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/827,555	Applicant(s) MIKOSHIBA ET AL.	
	Examiner Jason T. Whipkey	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8, 10-13, 15-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-13, 15-18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3, 5-8, 10-13, 15-18, and 20 have been considered but are moot in view of the new grounds of rejection.

### ***Specification***

2. The amendment to the title is approved and the corresponding objection is withdrawn.

### ***Drawings***

3. The replacement drawings were received on November 7, 2007. These drawings are approved and the corresponding objection is withdrawn.

### ***Claim Objections***

4. The amendment to the claims has vitiated the claim objections.

***Claim Rejections - 35 USC § 112***

5. The amendment to the claims has overcome the rejections under 35 U.S.C. 112, second paragraph. The rejections under this section are withdrawn.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kijima (Japanese Patent Publication No. 2000-013686) in view of Kitamura (U.S. Patent Application Publication No. 2003/0193600)

Regarding **claims 1 and 11**, Kijima discloses a digital camera (see Drawing 1 in the provided computer translation) comprising:

an image pickup device (CCD 1) having an image capturing area for converting optical images of a photographic object into electrical signals to accumulate (see page 7, lines 13-15);

a readout controller (signal generator 7) to control readout of the electrical signals accumulated in the image capturing area of the image pickup device (see page 7, lines 23-24);

an image information acquiring section (DRAM 9) to acquire image information according to the electrical signals being readout under the control of the readout controller (see page 7, line 44, through page 8, line 6);

an image display controller (inherently present in order for LCD 13 to operate) for controlling a display section (LCD 13) to display images based on the image information having been acquired by the image information acquiring section (see page 7, lines 40, through page 8, line 6); and

a signal output process executing section (process processing circuit 5) for executing signal output processing to output electrical signals accumulated in a first output area (shown in the center of Drawing 12) within the image capturing area of the image pickup device at a first speed (see page 8, lines 24-30) as well as to output electrical signals accumulated in the second output area (areas A and B in Drawing 12) other than the first output area at a second speed higher than the first speed (see *id.* and page 6, lines 31-35);

wherein the image information acquiring section acquires image information of a predetermined area according to electrical signals of the predetermined area within the first output area having been output by the signal output process executing section during the signal output processing (the central area is used for autofocusing and is output to LCD 13; see page 10, lines 13-16), and

the image display controller controls to display a moving image based on the image information of the predetermined area acquired by the image information acquiring section in a first display area corresponding to the predetermined area of the image capturing area, of the display section during the signal output processing (see *id.*).

Kijima is silent with regard to simultaneously displaying a predetermined still image on the rest of the display area.

Kitamura discloses an image capturing apparatus that performs high-speed readout when focusing (see paragraph 206), wherein the apparatus displays a predetermined still image in the display area (as shown in Figure 27, peripheral area D31 shows an image captured before focusing begins, while area D51 shows live image data used for focusing; see paragraphs 213-218).

As suggested in paragraphs 220-221, an advantage of displaying the still image data along with the live focusing image data is that autofocusing can be carried out while still allowing a user to compose the image. For this reason, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to have Kijima's system display still image data on the screen along with the live image data.

Regarding **claims 2 and 12**, Kijima discloses:

the predetermined still image is a predetermined color image (see page 4, line 11).

Regarding **claims 3 and 13**, Kijima discloses:

image information in which the predetermined area image information having been acquired by the image information acquiring section is removed from the whole display area image information (see page 10, lines 13-16).

Kitamura discloses:

the image information acquiring section (image memory 305 in Figure 14) acquires whole display area image information corresponding to a whole display area of the display section based on the electrical signals being readout under the control of the readout controller (control unit 140) at a starting timing of the signal output processing (see paragraph 213),

and the image display controller controls to display the predetermined still image on the second display area during the signal output processing (see paragraph 218).

Regarding **claims 5 and 15**, Kijima discloses:

an auto focus processing section for executing an auto focus processing to adjust a focus automatically at the time of image capturing of a photographic object, wherein when the auto focus processing is executed, the signal output

process executing section executes the signal output processing to output the electrical signals accumulated in the first output area within the image capturing area of the image pickup device at the first speed as well as to output the electrical signals accumulated in the second output area other than the first output area at the second speed (see page 8, lines 24-30).

Kitamura discloses:

and the image display controller controls to simultaneously display the moving image and the predetermined still image (see paragraph 218).

Regarding **claims 6 and 16**, Kijima discloses:

an auto focus processing section for executing an auto focus processing to adjust a focus automatically at the time of image capturing of a photographic object, wherein when the auto focus processing is executed, the signal output process executing section executes the signal output processing to output the electrical signals accumulated in the first output area within the image capturing area of the image pickup device at the first speed as well as to output the electrical signals accumulated in the second output area other than the first output area at the second speed (see page 8, lines 24-30).

Kitamura discloses:

and the image display controller controls to simultaneously display the moving image and the predetermined still image (see paragraph 218).

Regarding **claims 7 and 17**, Kijima discloses:



an auto focus processing section for executing an auto focus processing to adjust a focus automatically at the time of image capturing of a photographic object, wherein when the auto focus processing is executed, the signal output process executing section executes the signal output processing to output the electrical signals accumulated in the first output area within the image capturing area of the image pickup device at the first speed as well as to output the electrical signals accumulated in the second output area other than the first output area at the second speed (see page 8, lines 24-30),

wherein a predetermined area within the first output area includes a focus adjusting area where a focus adjusting position of the photographic object exists (see *id.* and note that the central portion of the image is used for focusing).

Kitamura discloses:

and the image display controller controls to simultaneously display the moving image and the predetermined still image (see paragraph 218).

Regarding **claims 8 and 18**, Kijima discloses:

an auto focus processing section for executing an auto focus processing to adjust a focus automatically at the time of image capturing of a photographic object, wherein when the auto focus processing is executed, the signal output process executing section executes the signal output processing to output the electrical signals accumulated in the first output area within the image capturing area of the image pickup device at the first speed as well as to output the electrical

signals accumulated in the second output area other than the first output area at the second speed (see page 8, lines 24-30),

wherein a predetermined area within the first output area includes a focus adjusting area where a focus adjusting position of the photographic object exists (see *id.* and note that the central portion of the image is used for focusing).

Kitamura discloses:

and the image display controller controls to simultaneously display the moving image and the predetermined still image (see paragraph 218).

Regarding **claims 10 and 20**, Kijima discloses:

the image information acquiring section acquires image information of the focus adjusting area based on the electrical signals of the focus adjusting area within the first output area having been output by the signal output process executing section during the auto focus processing (see page 8, lines 24-30).

Kitamura discloses:

wherein the image display controller controls to display the predetermined still image based on image information in which the focus adjusting area image information having been acquired by the image information acquiring section is removed from the whole display area image information (see paragraph 218).

*Conclusion*

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:30 A.M. to 6 P.M. eastern standard time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTW

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February 23, 2008



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SUPERVISORY PATENT EXAMINER